

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 04-10288-RWZ
)	
JOSEPH ALLEN,)	
Defendant)	
)	

GOVERNMENT'S RESPONSE TO DEFENDANT'S RENEWED MOTION TO REVOKE
DETENTION ORDER BASED UPON CHANGED CIRCUMSTANCES

Now comes the United States, by its attorneys, Michael J. Sullivan, United States Attorney, and David G. Tobin, Assistant U.S. Attorney, and hereby respectfully requests that this Honorable Court deny the defendant's Renewed Motion to Revoke Detention.

In support of this request, the United States avers the following: 1) On July 12, 2004, Magistrate Judge Swartwood ordered the defendant detained on the grounds that he posed a threat to the community and there were no conditions that could protect the community if he were released (Docket No. 47); 2) On August 9, 2004, this Honorable Court allowed the defendant's appeal of Judge swartwood's detention order and release the defendant on stringent conditions of release (Docket No. 78); 3) On July 28, 2005, the defendant tested positive for morphine and THC. At that time, the defendant admitted to Pretrial Services that he had been using heroin and marijuana since 2005; 4) On July 28, 2005, this Honorable Court approved a modification of

the defendant's conditions or release which included drug treatment (Docket No. 222); 5) On July 29, 2005, the defendant was admitted to Spectrum House in Westborough, Massachusetts for treatment of his drug addiction; 6) On September 26, 2005, the defendant left Spectrum House without notice or permission and Pretrial Services Officer Judith Oxford filed a Petition for revocation of Release (Docket No. 246); 7) On October 5, 2005, after a full evidentiary hearing, Magistrate Judge Swartwood revoked the defendant's conditions of release and ordered the defendant into confinement (Docket No. 248); 8) On November 17, 2005, this Honorable Court denied the defendant's appeal of Judge Swartwood's revocation of release (Docket No. 262); and 9) On January 20, 2006, the Court of Appeals for the First Circuit affirmed this Honorable Court's Order denying the defendant's appeal of Magistrate Judge Swartwood's detention revocation and dismissed the defendant's appeal.

The defendant petitions this Honorable Court to revoke the order of detention and permit his release on the ground that his trial date has been changed from April 3, 2006 to on or about May 1, 2006. The defendant's motion is silent on the issues of the defendant's dangerousness and his inability to conform his actions to the dictates of the law and the reasonable conditions imposed by this Honorable Court. The release of the defendant, even on the strictest conditions, poses a significant threat to

the community. The defendant was unable to abide by the conditions this Court previously imposed upon him. The defendant used heroin and marijuana while on pretrial release and walked away from Court ordered drug treatment without notice or authority.

The defendant's release at this time also poses a significant and immediate threat to the safety of the government witnesses in this case. On or about Thursday, March 23, 2006, Sara Ann Thompson, a government witness, was attacked at her home. During the early evening hours of March 23, 2006, Ms. Thompson received a telephone call from an unidentified male who instructed her to watch her children before hanging up. Later that night after going to bed, Ms. Thompson heard a knock on her front door and went to open the door. Through a window, she saw a person standing outside her front door. When Ms. Thompson opened the door, an unidentified male wearing a hooded sweatshirt obscuring the top of his face stated, "Sara." Ms. Thompson responded in the affirmative and observed the male take a silver blade from his pocket. Ms. Thompson placed her arms in front of her face in a defensive posture. The male slashed both of her forearms with the blade. Ms. Thompson was able to close the door and then called the police. Ms. Thompson's name and grand jury testimony had been previously provided to the defense. At the grand jury, Ms. Thompson testified that she had purchased

OyContin from the defendant (Joseph Allen) on numerous occasions. Ms. Thompson had no information on defendant Carlos Espinola.

The defendant has a long history of unprovoked violence. He is and will remain a danger to the community, particularly as his trial date draws near.

CONCLUSION

For the reasons stated above, the United States respectfully requests that this Honorable Court deny the defendant's motion.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/David G. Tobin
DAVID G. TOBIN
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants.

/s/ David G. Tobin
David G. Tobin
Assistant United States Attorney

Date: March 30, 2006

